



AB-109

WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

TO: REPRESENTATIVE DU WAYNE JOHNSRUD
FROM: Mark C. Patronskey, Senior Staff Attorney *mcp*
RE: Possession of a Firearm by a Minor
DATE: March 3, 2003

This memorandum is in response to your request for a description of the current statutes that apply to possession of a firearm by a minor. This issue is addressed both in the hunting regulations and the criminal statutes.

HUNTING REGULATIONS

The current statutes restrict hunting and use of firearms by persons under 16 years of age. These restrictions are contained in the hunting and fishing regulations in s. 29.304, Stats., and overlap, to some extent, the criminal statutes.

Persons Under 12 Years of Age

Hunting

May not hunt with a firearm or bow and arrow.

Possession of a Firearm

May not possess or control a firearm unless enrolled in the hunter education program and carrying the firearm in a case, unloaded, to or from the class under the supervision of a parent or guardian or handling the firearm during class under the supervision of an instructor.

Persons 12 or 13 Years of Age

Hunting

May not hunt unless accompanied by a parent or guardian.

Possession of a Firearm

May not possess or control a firearm unless accompanied by a parent or guardian or unless enrolled in the hunter education program and carrying the firearm in a case, unloaded, to or from that class or handling the firearm during class under the supervision of an instructor.

Persons 14 and 15 Years of Age

Hunting

May not hunt unless accompanied by a parent or guardian or in possession of a hunter education certificate.

Possession of a Firearm

May not possess a firearm unless: (1) accompanied by a parent or guardian; (2) enrolled in the hunter education program and carrying the cased firearm to class or handling the firearm during class; or (3) in possession of a hunter education certificate.

CRIMINAL STATUTES

Possession of or going armed with a dangerous weapon by a person under the age of 18 years is generally prohibited under Wisconsin law. [s. 948.60 (2), Stats.] "Dangerous weapon" means, among other things, "any firearm, loaded or unloaded." [s. 948.60 (1), Stats.] A person under the age of 17 years who violates this prohibition is subject to the Juvenile Justice Code, unless jurisdiction is waived or the person is subject to the jurisdiction of a criminal court.

Exceptions to the general prohibition against a person under the age of 18 possessing or going armed with a firearm or other dangerous weapon are:

- A person under the age of 18 years who possesses or is armed with a firearm when the firearm is being used in target practice under the supervision of an adult or in a course of instruction in the traditional and proper use of the firearm under the supervision of an adult.
- A person under the age of 18 years who is a member of the U.S. Armed Forces or National Guard and who possesses or is armed with a firearm in the line of duty.
- A person under the age of 18 years who possesses or is armed with a firearm having a barrel 12 inches in length or longer and who is in compliance with the Hunter Education and Firearm Safety Program.

If you have any questions or need additional information, please contact me directly at the Legislative Council staff offices.

MCP:tlw:wu:rv



WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: REPRESENTATIVE DU WAYNE JOHNSRUD

FROM: Mark C. Patronsky, Senior Staff Attorney *MCP*

RE: Draft Amendment to 2003 Assembly Bill 109, Relating to Various Hunting, Fishing, and Trapping Statutes

DATE: April 1, 2003

Attached to this memorandum is a copy of LRBa0404/1, a draft amendment to 2003 Assembly Bill 109. Assembly Bill 109 relates to various statutes under the Department of Natural Resources' jurisdiction, including several related to the hunter education program. Assembly Bill 109 was the subject of a public hearing in the Natural Resources Committee on March 5, 2003.

The purpose for the attached amendment is to make the bill conform with applicable requirements of federal law. The federal law is part of the Gun-Free Schools Act, as amended by the No Child Left Behind Act. As required by federal law, current s. 120.13, Stats., requires suspension of and the commencement of expulsion proceedings for a public school pupil who possesses a firearm at school. *The bill* creates an exemption from this requirement for a pupil possessing a firearm in a hunter education program. *The amendment* creates an exemption for a pupil who possesses a firearm in order to participate in any activity approved by the school board, if the school board has adopted safety standards and the pupil participating in the activity complies with those safeguards. The amendment is substantially the same as an exemption in the federal law.

In addition, *the amendment* adds an exemption to the suspension and expulsion proceedings requirement, if a pupil has a firearm lawfully stored inside a locked vehicle on school property. This is also an exemption under federal law.

The bill also adds language to the current criminal statute on gun-free school zones, s. 948.605 (see pp. 10-11 of the bill). The current statute prohibits possession of firearms in a school zone or discharge of firearms in a school zone. The current statute exempts from these two prohibitions any actions by an individual (whether or not a pupil) in a program approved by a school in the school zone. The bill adds hunter education programs to these two exemptions. *The amendment* deletes the changes to criminal law. The current Wisconsin criminal statutes conform with federal criminal law. The bill creates an exemption for hunter education programs and does not require approval by the school, as

required for the exemption under federal law. Thus, the bill would decriminalize activity (participation in a hunter education program that was *not* approved by a school board in the school zone) which would continue to be prohibited by federal criminal law. Deleting these two changes in the bill retains consistency with federal law.

If I can provide further information on this subject, please feel free to contact me.

MCP:rv;tlu

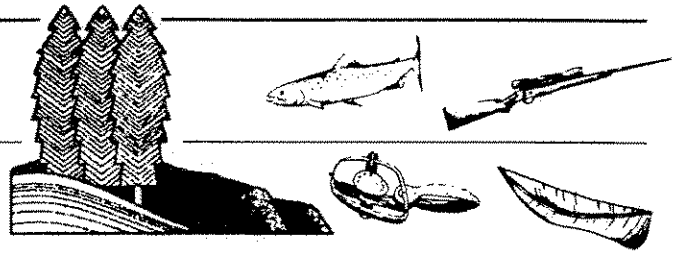
Attachment

Assembly Committee on

Natural Resources

State Representative

DuWayne Johnsrud, Chair



Assembly Bill 109

Testimony of Representative DuWayne Johnsrud for the Senate
Environment and Natural Resources Committee

July 10, 2003 - 1:00 p.m. Room 300 Southeast

A key to the future of hunting and trapping is to make it easier for young people to participate. The provisions in this bill make that possible:

- Allow persons who are under 12 to handle firearms with adult supervision.
(March 3, 2003 Legislative Council Memo)
- Allow Hunter Education graduates to hunt with an adult who is not that person's legal guardian. Mentors who are not legal guardians should be able to take neighbors or friends hunting.
- Technical correction to give school administrators the ability to allow firearms in schools for hunter education courses. (April 1, 2003 Legislative Council Memo)
- Enter Wisconsin into an agreement that already exists between several other states to allow youthful hunters from one state to purchase small game licenses in another state at the resident rate, which is considerably less expensive.
- Allow proceeds from the sale of furbearer pelts that are recovered from the field by department personnel to be credited to the trapper education program. These pelts are currently prepared in education classes and proceeds are deposited into the general account.
- Authorizes DNR to use seized and confiscated firearms or other equipment for safety education or outdoor skills programs.
- Allows DNR to work with the International Hunter Education Association to compile a list of safety programs that would be recognized in Wisconsin as meeting our own requirements.
- Allow Hunter Safety graduates to use graduate certificate in place of hunter's choice permit to harvest antlerless deer during the first deer season when they are old enough to hunt. Hunter Safety graduates can use the certificate during the year that they take the course, but some miss this opportunity because they are not old enough to hunt until after the deer season.